
SUBSTITUTE HOUSE BILL 2614

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Morrell, Conway, Williams, Blake, Kirby, Eickmeyer, Grant, Wallace, Hankins, Linville, McCoy, Flannigan, Anderson, McIntire, Kenney, Walsh, Hudgins, Holmquist, Condotta, Ormsby, Upthegrove and Simpson)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to employment decisions based on consumption of
2 lawful products; adding a new section to chapter 49.44 RCW; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44 RCW
6 to read as follows:

7 (1) It is unlawful for an employer to refuse to hire or to
8 discharge an individual, or otherwise disadvantage an individual, with
9 respect to compensation, terms, conditions, or privileges of employment
10 because the individual engages in the consumption of lawful tobacco
11 products off the premises of the employer during nonworking hours,
12 provided the individual complies with applicable laws or policies
13 regulating consumption of lawful tobacco products on the premises of
14 the employer during working hours.

15 (2) It is not unlawful or an unfair employment practice under this
16 section for an employer to refuse to hire, discharge, or otherwise
17 disadvantage an individual with respect to compensation, terms,
18 conditions, or privileges of employment if that decision is based on:

1 (a) The individual's failure to meet job-related standards set by
2 the employer;

3 (b) An employer's legitimate conflict of interest policy reasonably
4 designed to protect the employer's trade secrets, proprietary
5 information, or other proprietary interests;

6 (c) A bona fide occupational qualification or requirement,
7 including qualifications or requirements implemented by the employer to
8 screen for respiratory diseases in occupations where the individual
9 will be exposed to smoke and noxious fumes; or

10 (d) The employer's drug and alcohol free work place program,
11 including those adopted in response to federal requirements.

12 (3) Nothing in this section shall be applied to any matter that is
13 also subject to collective bargaining between the employer and the
14 affected employee.

15 (4) Nothing in this section precludes a religious or health
16 organization, whose tenets prohibit the use of an otherwise lawful
17 tobacco product or a company or nonprofit organization whose primary
18 business purpose is the prevention of heart and lung disease, from
19 refusing to employ an individual who uses an otherwise lawful tobacco
20 product.

21 (5) The remedy for an individual claiming to be aggrieved by a
22 violation of this section is a civil action for damages for all wages
23 and benefits deprived the individual by reason of the violation.

24 (6) In a civil action alleging a violation of this section, the
25 court may award the prevailing party court costs and reasonable
26 attorneys' fees.

27 (7) An individual aggrieved by a violation of this section must
28 file the civil action within six months after the alleged unlawful or
29 unfair employment practice or the discovery of that practice.

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